



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Martinsburg, West Virginia 25405
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TNW Firearms, Inc.
P.O. Box 311
Vernonia, Oregon 97064

NOV 02 2011

Dear (b) (6)

This is in response to your letter dated June 20, 2011, along with accompanying M44 semi-automatic parts kit, to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Firearms Technology Branch (FTB). In your correspondence, you request FTB to evaluate your submitted parts kit and determine if it qualifies as a *firearm* as defined in Gun Control Act of 1968 (GCA), 18 U.S.C. § 921(a)(3)

In § 921(a)(3), the GCA defines the term "**firearm**" as follows: ... (A) *any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device. Such term does not include an antique firearm.*"

We should also point out, as further background to this reply, that the National Firearms Act (NFA), 26 U.S.C. 5845(a) defines "**firearm**" as—

... (1) *a shotgun having a barrel or barrels of less than 18 inches in length; (2) a weapon made from a shotgun if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length; (3) a rifle having a barrel or barrels of less than 16 inches in length; (4) a weapon made from a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length; (5) any other weapon, as defined in subsection (e); (6) a machinegun; (7) any silencer (as defined in section 921 of title 18, United States Code); and (8) a destructive device. The term 'firearm' shall not include an antique firearm or any device (other than a machinegun or destructive device) which, although designed as a weapon, the ... [Attorney General]... finds by reason of the date of its manufacture, value, design, and other characteristics is primarily a collector's item and is not likely to be used as a weapon.*

During our examination, FTB found that the TNW parts kit consists of parts from a destroyed M44 sub-machinegun, minus the receiver. We noted that TNW has formed a sheet-metal replacement for the receiver that has not reached a point in manufacturing to be considered a "firearm" frame/receiver in its current configuration.

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Overall, FTB found that the M44-type kit consists of the following:

- As noted, unfinished M44-type receiver (new manufacture).
- M44-type machinegun barrel (10 inches in length).
- M44-type barrel shroud.
- M44-type trigger-housing with pistol grip.
- M44-modified bolt with floating firing pin.
- M44-type rear receiver section with folding stock.
- M44-type trigger-housing assembly.
- Trunnion (new manufacture).
- Fire-control components (new hammer and sear).

The FTB examination of the bolt revealed that a slot has been cut approximately 3/8-inch wide, the full length of the bolt. Additionally, TNW has modified the machinegun bolt by removing the fixed firing pin and cutting a channel for a movable firing pin.

As you aware, the GCA, 18 U.S.C. § 922(r), prohibits assembly of certain semiautomatic rifles and shotguns from imported parts. Also, the implementing regulations contained in 27 CFR § 478.39 include the stipulation that "no person shall assemble a semiautomatic rifle or any shotgun using more than 10 of certain imported parts, if the assembled firearm is prohibited from importation under 18 U.S.C. § 925(d)(3) as not being particularly suitable for or readily adaptable to sporting purposes." These parts are as follows:

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| <i>(1) Frames, receivers, receiver castings, forgings, or castings.</i> | <i>(11) Triggers.</i> |
| <i>(2) Barrels.</i> | <i>(12) Hammers.</i> |
| <i>(3) Barrel extensions.</i> | <i>(13) Sear.</i> |
| <i>(4) Mounting blocks (trunnions).</i> | <i>(14) Disconnectors.</i> |
| <i>(5) Muzzle attachments.</i> | <i>(15) Buttstocks.</i> |
| <i>(6) Bolts.</i> | <i>(16) Pistol grips.</i> |
| <i>(7) Bolt carriers.</i> | <i>(17) Forearms, handguards.</i> |
| <i>(8) Operating rods.</i> | <i>(18) Magazine bodies.</i> |
| <i>(9) Gas pistons.</i> | <i>(19) Followers.</i> |
| <i>(10) Trigger housings.</i> | <i>(20) Floor plates.</i> |

Therefore, it is a violation of § 922(r) to assemble such a rifle or shotgun from more than 10 of the imported parts specified in 27 CFR § 478.39. However, assembly of certain semiautomatic rifles or shotguns using 10 or fewer of these imported parts is not prohibited under this section.

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Our Branch has established a foreign-parts list that is specific to the M44-type semiautomatic rifle, and FTB personnel have determined that the following parts listed in 27 CFR 478.39 apply:

- Receiver.
- Barrel.
- Trunnion.
- Bolt.
- Trigger housing.
- Trigger.
- Hammer.
- Sear.
- Pistol Grip
- Buttstock.
- Magazine body.
- Follower.
- Floorplate.

In summary, we found 13 foreign parts applicable to the M44-type semiautomatic rifle design. The replacement receiver that TNW has formed and provided with the kit would count as one part when finished; further, the TNW kit has a newly manufactured trunnion, hammer, and sear, reducing the foreign parts count to nine.

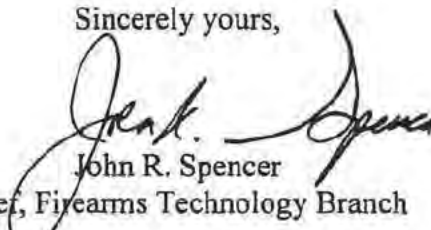
With respect to NFA relevance, the FTB inspection observed that the M44 kit has a barrel that is 10 inches in length; further, the shoulder stock is fully functional. Therefore, when the incomplete receiver that is contained in the kit is finished, the possessor of the kit would be in possession of a combination of parts from which a "short barreled rifle" can be assembled, unless the shoulder stock is permanently welded in the folded position prior to the completion of the receiver.

The barrel included in this submission appears to be a machinegun barrel. Machineguns are regulated by the NFA and, therefore, are prohibited from importation under § 925(d)(3). We caution that barrels for firearms that would be prohibited from importation if assembled, including machineguns, cannot be lawfully imported unless such barrels are being imported for, or on behalf of, Government agencies.

In conclusion, the FTB examination revealed that none of the items contained in the kit, to include the unfinished receiver, constitute a "firearm" as defined in 921(a)(3) or a "machinegun" as defined in the 5845(b). The kit, in its totality (to include instructions and templates), is not subject to regulation under the provisions of the GCA or NFA.

We thank you for providing a return FedEx shipping label and trust the foregoing has been responsive to your request.

Sincerely yours,



John R. Spencer
Chief, Firearms Technology Branch